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TAGS: [PGOV](#) [PHUM](#) [KJUS](#) [SN](#)
SUBJECT: COURT SLAMS DOW JONES FOR CONTEMPT BUT IMPOSES
NEGLIGIBLE FINE

REF: SINGAPORE 01099

Classified By: DCM Daniel L. Shields for reason 1.4(d).

SUMMARY AND COMMENT

[1](#)1. (SBU) Summary. A Singapore judge has fined publisher Dow Jones over US\$16,000 for contempt of court, the largest contempt fine ever imposed here. The judge also called Dow Jones a "repeat offender" and ordered the company to pay Singapore's Attorney-General (AG) nearly US\$20,000 in legal costs. The contempt charges arose from three items published in the Wall Street Journal Asia (WSJA) earlier this year. The judge adopted the AG's legal arguments with few exceptions, finding that the publications "clearly possess the inherent tendency to interfere with the administration of justice" and rejecting Dow Jones's argument that the AG should at least have to prove that the publications posed a "real risk" of harming public confidence in the judiciary. End summary.

[1](#)2. (C) Comment. The fine, though reportedly the largest handed out for contempt in Singapore's legal history, is surprisingly small. The AG had argued forcefully for a penalty with true deterrent power, stressing that Dow Jones had been found in contempt twice before. The court, perhaps mindful of international opinion, seems to have tried to split the difference: it gave the AG the legal rulings he wanted but settled for a fine that poses no real threat to Dow Jones and is unlikely to deter it from editorializing as it pleases in the future. Dow Jones probably spent more than the combined fine and court costs on its own attorneys in the case. The company's Singapore lawyer, Philip Jeyaretnam (protect), told PolOff that he was surprised by the low figure and by the judge's willingness to refuse the AG's request for at least a six-figure punishment. True deterrence) such as defamation damages awards running to hundreds of thousands of dollars) is apparently still reserved for local opposition figures, not for the international press. End comment.

PREVIOUS CONTEMPT FINES WERE SMALLER, BUT NOT MUCH

[1](#)3. (C) On November 25, Singapore's High Court found Dow Jones in contempt of court for publishing three items in the WSJA this past summer questioning the independence of Singapore's courts from the ruling People's Action Party government. (See below for details of the publications.) As punishment, the court ordered Dow Jones to pay a fine of S\$25,000 (approximately US\$16,500) and to compensate the AG for S\$30,000 (approximately US\$19,900) in court costs. Singapore courts have slapped Dow Jones with contempt fines twice before on similar grounds: S\$6,000 in 1985, and S\$4,000 in 1991. Until this latest judgment, the largest contempt penalty on record was reportedly a 1995 fine for S\$10,000 imposed on Christopher Lingle, a U.S. citizen then

teaching at a local university, for publishing a newspaper article that similarly questioned judicial independence in Singapore. According to Philip Jeyaretnam (protect), Dow Jones is still considering its options for responding to the new ruling. Payment of the fine is due by December 2, but the company could try to take the case to the Court of Appeal, Singapore's highest court.

ORDINARY JOURNALISM AS CONTEMPT-OF-COURT FODDER

¶4. (SBU) The AG based the contempt charges on three WSJA items that arose from the ongoing legal battles between high-ranking PAP politicians and opposition party leader Chee Soon Juan. First, reporting on a defamation lawsuit brought against Chee by Prime Minister Lee Hsien Loong and Minister Mentor Lee Kuan Yew, WSJA ran an editorial on June 26, 2008, criticizing the judiciary's role in "Lee Kuan Yew's Singapore." The second item was not even written by anyone at WSJA; on July 9, 2008, WSJA merely printed a letter from Chee in which he complained that the court in the defamation case had not allowed him to present a substantive defense, call witnesses, or cross-examine the plaintiffs. (Note: Chee essentially defaulted in the defamation case by failing to offer a timely defense.) The third item was a July 15, 2008, editorial that highlighted a critical report by the International Bar Association on the Singapore judiciary's lack of independence. The court agreed with the AG that all three of these publications were in contempt of court, even though WSJA had also published in full replies by Singapore government officials.

COURT REJECTS NEED FOR EVIDENCE OF CONTEMPT

¶5. (SBU) Dow Jones tried unsuccessfully to nudge the court toward a small modernization of Singapore's law of contempt. These contempt charges were for "scandalizing the court") i.e., for making statements that could undermine public confidence in the judiciary. Dow Jones argued that even in jurisdictions where this version of contempt still exists, courts impose punishment only where the prosecutor shows that the defendant's statements pose a "real risk" of damaging the justice system. The judge rejected this test, adhering instead to Singapore's existing rule that the court can punish contempt based on a publication's "inherent tendency" to undermine public confidence, regardless of whether the government can show that there was a real risk of harm in the actual circumstances of the case. This ruling is a victory for the AG, because it leaves him free to continue bringing contempt cases against critics of Singapore's courts without have to produce any evidence beyond the publications themselves.

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